

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 DANA ANDREW, as legal guardian on
5 behalf of Ryan T. Pretner, and RYAN T.
6 PRETNER,

7 Plaintiffs,

8 v.

9 CENTURY SURETY COMPANY,

10 Defendant.

Case No. 2:12-cv-00978-APG-PAL

**ORDER (1) GRANTING MOTION TO
LIFT STAY, (2) SETTING A BRIEFING
SCHEDULE, (3) DIRECTING PARTIES
TO MEET AND CONFER
REGARDING CERTIFYING
QUESTIONS, AND (4) GRANTING
MOTION FOR LEAVE TO FILE
EXCESS PAGES**

11 I previously stayed this matter in light of the Ninth Circuit Court of Appeals certifying to
12 the Supreme Court of Nevada a question of law which could have a significant impact on the
13 outcome of this case. ECF No. 227; *Nalder v. United Automobile Ins. Co.*, Ninth Cir. Case No.
14 13-17441. Prior to the stay, defendant Century Surety Company filed a motion for
15 reconsideration of one of my prior orders. ECF No. 218. Briefing on that motion has been stayed.

16 Recently, the plaintiffs filed a motion to lift the stay because, given developments in the
17 *Nalder* case, it appears the Supreme Court of Nevada's answer to the certified question will be
18 delayed and possibly mooted altogether. ECF No. 245. Defendant Century does not oppose
19 lifting the stay and requests I set a briefing schedule for its motion for reconsideration.

20 I grant the motion to lift stay. The plaintiffs shall have until August 9, 2017 to respond to
21 the motion for reconsideration. Defendant Century shall have until August 18, 2017 to file a
22 reply.

23 Additionally, I direct the parties to meet and confer and submit a joint status report
24 regarding whether I ought to certify to the Supreme Court of Nevada the same question of law as
25 in *Nalder*: "Whether, under Nevada law, the liability of an insurer that has breached its duty to
26 defend, but has not acted in bad faith, is capped at the policy limit plus any costs incurred by the
27 insured in mounting a defense, or is the insurer liable for all losses consequential to the insurer's
28

1 breach?" The parties shall also address whether any other questions of law should be certified to
2 the Supreme Court of Nevada.

3 IT IS THEREFORE ORDERED that the plaintiffs' motion to lift stay (**ECF No. 245**) is
4 **GRANTED.**

5 IT IS FURTHER ORDERED that the plaintiffs shall file a response to the defendant's
6 motion for reconsideration (ECF No. 218) on or before August 9, 2017. The defendant shall file
7 a reply on or before August 18, 2017.

8 IT IS FURTHER ORDERED that the parties shall meet and confer and submit a joint
9 status report on or before August 11, 2017 regarding whether I ought to certify to the Supreme
10 Court of Nevada the same question that was certified in *Nalder* and/or any other questions of law.

11 IT IS FURTHER ORDERED that the defendant's motion for leave to file excess pages
12 (**ECF No. 217**) is **GRANTED.**

13 DATED this 24th day of July, 2017.

14 

15 _____
16 ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28